

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MICHAEL CHAVIS,
Federal Defender Services
of Eastern Tennessee, Inc.
800 S. Gay Street, Suite 2400
Knoxville, TN 37929

Plaintiff,

v.

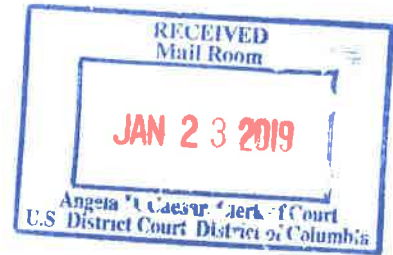
Case: 1:19-cv-00170 (I-DECK)
Assigned To : Unassigned
Assign. Date : 1/23/2019
Description: FOIA/Privacy Act

UNITED STATES DEPARTMENT OF JUSTICE,
950 Pennsylvania Avenue, NW
Washington, DC 20530

and

FEDERAL BUREAU OF INVESTIGATION,
FBI Headquarters
Freedom of Information Request/PA Unit
935 Pennsylvania Avenue, NW
Washington, DC 20535-0001

Defendants.



COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

1. This cause of action is brought pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act of 1974 (Privacy Act), 5 U.S.C. § 552(a), to redress the deprivation of Plaintiff's rights under the Act caused by the failure of the Department of Justice and Federal Bureau of Investigation (FBI) to fulfill Plaintiff's request for records relating to the crime for which he and others were charged, convicted and sentenced.

2. This case seeks declaratory relief that Defendants are in violation of the FOIA for failing to fulfill Plaintiff's request for records, and injunctive relief that Defendant immediately and fully comply with Plaintiff's request under the FOIA.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action and personal jurisdiction over Defendants pursuant to 5 U.S.C. § 552(a)(4)(B) (FOIA), 5 U.S.C. § 522a(g)(1)(b) (Privacy Act), and 28 U.S.C. § 1331 (federal question). Venue lies in this district under 5 U.S.C. § 552(a)(4)(B) and 5 U.S.C. § 552a(g)(5), which provide that the district court of the United States in the District of Columbia has jurisdiction to enjoin these federal agencies from withholding agency records and to order the production of any agency records improperly withheld from the Plaintiff.

PARTIES

4. Plaintiff, Michael Chavis, is an adult citizen of the United States and resident of Knox County, Tennessee. Plaintiff Chavis is employed as an investigator for Federal Defender Services of Eastern Tennessee, Inc. (FDSET).
5. Plaintiff is harmed by Defendants' failure to comply with the FOIA.
6. Defendant Department of Justice (DOJ) is an agency of the United States Government within the meaning of 5 U.S.C. §§ 551, 552(f), and 702, that has possession, custody, and/or control of the records that Plaintiff seeks and is responsible for fulfilling Plaintiff's FOIA request. Defendant's failure to

produce records responsive to Plaintiff's request, or make any determination regarding Plaintiff's request, occurred within this district. The DOJ headquarters are located at 950 Pennsylvania Avenue NW, Washington, D.C. 20530.

7. Defendant Federal Bureau of Investigation (FBI) is an agency within the meaning of 5 U.S.C. §§ 551, 552(f), and 702, and is a component of DOJ. Defendant FBI has possession, custody and/or control of the records Plaintiff seeks. Defendant's failure to produce records responsive to Plaintiff's request, or make any determination regarding Plaintiff's request, occurred within this district. The FBI headquarters are located at 935 Pennsylvania Avenue NW, Washington, DC 20535-0001.

FACTS GIVING RISE TO PLAINTIFF'S CLAIMS FOR RELIEF

8. Plaintiff Chavis is employed as an investigator for Federal Defender Services of Eastern Tennessee, Inc. (FDSET).
9. On February 27, 2017, FDSET was appointed to represent Ricardo Sanchez, an indigent capital defendant, in his federal post-conviction proceedings.¹
10. Ricardo Sanchez was criminally charged in the United States District Court for the Southern District of Florida in the same indictment with Danny Varela, Daniel Troya, Liana Lopez, Juan C. Gutierrez, and Kevin Vetere. All were charged with drug and gun offenses. Sanchez, Troya, and Varela were

¹ *Sanchez v. United States*, No. 16-cv-80693, Order, ECF No. 63 (S.D. Fla. Feb. 27, 2017).

charged in connection with the deaths of Jose and Yessica Escobedo and their two young sons on the Florida Turnpike in October 2006. The case received nationwide publicity.

11. The FBI is a component of the DOJ. The FBI assisted the DEA and local law enforcement agencies in the investigation and prosecution of Mr. Sanchez's case.
12. On September 11, 2018, in his capacity as investigator for Ricardo Sanchez, Plaintiff Chavis made a request to the FBI for records under the Freedom of Information Act (5 U.S.C. § 552) (FOIA), and the Privacy Act of 1974 (5 U.S.C. § 552a). (Attachment A).
13. On September 20, 2018, the FBI acknowledged receipt of Plaintiff's records request and assigned it FOIPA Request Number 1416610-0006. The FBI's letter informed Plaintiff his "request has been closed" because it involved "one or more third party individuals[.]" (Attachment B).
14. On September 24, 2018, Plaintiff availed himself of dispute resolution services online through the Office of Government Information Services and submitted the original records request and a Certificate of Identity form for Ricardo Sanchez. (Attachment C). Receipt of Plaintiff's request was acknowledged on September 25, 2018. (Attachment D).
15. On September 26, 2018, Plaintiff received a response stating:

Regarding your inquiry dated September 24, 2018, which contained a privacy waiver for one of the individuals associated with this FOIPA request, we conducted an additional review. We determined a search is

required for Ricardo Sanchez as a waiver was provided and; therefore, a new FOIPA request number will be opened and assigned.

(Attachment E).

16. On September 27, 2018, Plaintiff received another letter from the FBI with the new FOIPA Request Number 1417523-000. The letter also states that Plaintiff's "request has been received at FBI Headquarters for processing." (Attachment F).
17. Eighty-five working days later, on December 21, 2018, Plaintiff inquired about the status of his request and learned "[t]he FBI's FOIPA Program has identified potential responsive information to [the] request and awaits assignment to a Government Information Specialist (GIS) for further processing." (Attachment G).
18. To date, Plaintiff has not received the records requested from the FBI nor a determination whether the FBI will disclose the requested records.

CAUSES OF ACTION

Count I

Violation of FOIA (5 U.S.C. § 522) for Wrongful Withholding of Agency Records

19. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.
20. The FOIA, 5 U.S.C. § 552, requires agencies of the federal government to release requested records to the public unless one or more specific statutory exemptions apply.

21. An agency must respond to a party making a FOIA request within 20 working days, notifying that party of at least the agency's determination whether or not to fulfill the request, and of the requester's right to appeal the agency's determination to the agency head. 5 U.S.C. § 552(a)(6)(A)(i).
22. If an agency fails to comply with the applicable time limit for responding to a FOIA request, the requesting party "shall be deemed to have exhausted his administrative remedies[.]" 5 U.S.C. § 552(a)(6)(C)(i).
23. This Court has jurisdiction, upon receipt of a complaint, "to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant." 5 U.S.C. § 552(a)(4)(B).
24. Defendants are agencies subject to the FOIA. 5 U.S.C. §§ 552(f) and 551.
25. Defendants have possession of the documents and records that Plaintiff seeks. *See* Attachment G.
26. Plaintiff properly asked for records within Defendants' control. 5 U.S.C. § 522(a)(3). *See* Attachment C.
27. Plaintiff is entitled by law to access to the records requested under the FOIA, unless Defendants make an explicit and justified statutory exemption claim.
28. Defendants have failed to timely respond to Plaintiff's records request, in violation of FOIA, 5 U.S.C. § 522(a)(6)(A).
29. Defendants have failed to make responsive records available to Plaintiff, in violation of FOIA, 5 U.S.C. § 522(a)(3)(A).

30. Defendants are wrongfully withholding these records from Plaintiff and have no legal basis for their actions in withholding the right of access to the requested records.
31. Plaintiff has or is deemed to have exhausted all applicable administrative remedies as provided in the FOIA. 5 U.S.C. § 522(a)(6)(C)(i) (providing for constructive exhaustion when an agency fails to comply with applicable time limits).
32. Therefore, Defendants have violated FOIA's mandate to release agency records to the public by failing to release the records as Plaintiff specifically requested. 5 U.S.C. §§ 552(a)(3)(A), 552(a)(4)(B).

COUNT II

Violation of FOIA (5 U.S.C. § 522) for Failure to Conduct a Reasonable Search

33. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.
34. Defendants are agencies subject to the FOIA. 5 U.S.C. §§ 552(f) and 551.
35. Plaintiff's request for records properly seeks records within the possession, custody, and/or control of Defendants. 5 U.S.C. § 522(a)(3). *See Attachment C.*
36. Defendants have failed to conduct a search reasonably calculated to identify all records responsive to Plaintiff's request for records, in violation of its obligations under the FOIA. 5 U.S.C. § 522(a)(3)
37. Plaintiff has or is deemed to have exhausted all applicable administrative remedies as provided in the FOIA. 5 U.S.C. § 522(a)(6)(C)(i) (providing for

constructive exhaustion when an agency fails to comply with applicable time limits).

38. Therefore, Defendants have violated FOIA's mandate to release agency records to the public by failing to release the records as Plaintiff specifically requested. 5 U.S.C. § 552(a)(3)(A), (4)(B).

Count III

Violation of the Privacy Act (5 U.S.C. § 522a) for Wrongful Withholding of Agency Records

39. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.
40. Defendants are agencies subject to the Privacy Act of 1974. 5 U.S.C. § 552a(a) & (e).
41. Defendants have possession of the documents and records that Plaintiff seeks. *See* Attachment G.
42. Plaintiff properly asked for records within Defendants' control. 5 U.S.C. § 522a(b)(2) & (d). *See* Attachment C.
43. Plaintiff is entitled by law to access to the records requested. *See* 5 U.S.C. § 522(g)(1)(B) & (g)(3).
44. Defendants have failed to timely respond to Plaintiff's records request, in violation of the Privacy Act. 5 U.S.C. § 522a(e)(6) & (f).
45. Defendants have failed to make responsive records available to Plaintiff, in violation of the Privacy Act, 5 U.S.C. § 522a(d), (e)(6) & (f).

46. Defendants are wrongfully withholding these records from Plaintiff and have no legal basis for their actions in withholding the right of access to the requested records. *See* 5 U.S.C. § 522a(f).
47. Plaintiff has or is deemed to have exhausted all applicable administrative remedies as provided in the Privacy Act.

COUNT IV

Violation of the Privacy Act of 1974 (5 U.S.C. § 522a) for Failure to Conduct a Reasonable Search

48. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.
49. Defendants are agencies subject to the Privacy Act of 1974. 5 U.S.C. § 552a(a) & (e).
50. Defendants have possession of the documents and records that Plaintiff seeks. *See* Attachment G.
51. Plaintiff properly asked for records within Defendants' control. 5 U.S.C. § 522a(b)(2) & (d). *See* Attachment C.
52. Plaintiff is entitled by law to access to the records requested. *See* 5 U.S.C. § 522(g)(1)(B) & (g)(3).
53. Defendants have failed to conduct a search reasonably calculated to identify all records responsive to Plaintiff's request for records, in violation of the Privacy Act, 5 U.S.C. § 522a(d), (e)(6) & (f).
54. Defendants are wrongfully failing to search for records responsive to Plaintiff's request and have no legal basis for their actions in doing so and in

withholding the right of access to the requested records. *See* 5 U.S.C. § 522a(f).

55. Plaintiff has or is deemed to have exhausted all applicable administrative remedies as provided in the Privacy Act.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in favor of Plaintiff and against Defendant(s), and:

- (a) Declare Defendants' failure to comply with FOIA and the Privacy Act of 1974 to be unlawful;
- (b) Declare that Plaintiff is entitled to disclosure of the requested records;
- (c) Order Defendants to conduct a search reasonably calculated to identify all records responsive to Plaintiff's records request;
- (d) Order Defendants to immediately disclose, in their entirety, unredacted versions of all records responsive to the request that are not specifically exempt from disclosure under the FOIA or the Privacy Act, including any non-identical copies of any such records;
- (e) Issue an injunction enjoining Defendants from withholding the records requested by Plaintiff; and,
- (f) Provide such other relief as the Court may deem just and proper.

Respectfully submitted,

FEDERAL DEFENDER SERVICES
OF EASTERN TENNESSEE, INC.

BY:



Stephen M. Kissinger, WY Bar 5-2342
Asst. Federal Community Defender
800 S. Gay Street, Suite 2400
Knoxville, TN 37929
Phone: (865) 637-7979
Facsimile: (865) 637-7999
Stephen_Kissinger@fd.org

**FEDERAL DEFENDER SERVICES
OF EASTERN TENNESSEE, INCORPORATED**

800 S. Gay Street, Suite 2400
Knoxville, Tennessee 37929-9714

Elizabeth B. Ford
Federal Community Defender

Telephone 865-637-7979
Fax 865-637-7999

September 11, 2018

VIA FAX: (540) 868-4391

David M. Hardy, Section Chief
Record/Information Dissemination Section
Records Management Division
Federal Bureau of Investigation
170 Marcel Drive
Winchester, VA 22602-4843

RE: **FOIA Request (Previous request #1413680-000)**
Expedited Services Requested



Dear Mr. Hardy:

This is a request pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. I am requesting that your agency provide me with copies of any and all records in your possession for the following:

1. all documents, files, records, etc. pertaining to any investigation, arrest, indictment, conviction, sentencing, incarceration, and/or parole of (3) Daniel Troya (a/k/a "Homer"), DOB: 04/22/ , who was charged on April 18, 2007, with violations of 21 U.S.C. § 846, 21 U.S.C. §§ 841(b)(1)(A) and 841(b)(1)(B), 18 U.S.C. § 922(g), 18 U.S.C. §§ 924(c), and 924(j), 18 U.S.C. § 2119(3), 18 U.S.C. § 3591(a)(2)(A) and §§ 3592(c)(5), 3592(c)(8), 3592(c)(9), 3592(c)(11), and 3592(c)(16), in criminal case number 9:06-Cr-80171 in the U.S. District Court for the Southern District of Florida;
2. all public documents, files, records, etc. pertaining to any investigation, arrest, indictment, conviction, sentencing, incarceration, and/or parole of Co-Defendant (1) Danny Varela (a/k/a "D.V."), DOB: 09/25/ , who was charged on April 18, 2007, with violations of 21 U.S.C. § 846, 21 U.S.C. §§ 841(b)(1)(A) and 841(b)(1)(B), 18 U.S.C. § 922(g), 18 U.S.C. §§ 924(c), and 924(j), 18 U.S.C. § 371, 26 U.S.C. §§ 5861(d) and 5871, in criminal case number 9:06-Cr-80171 in the U.S. District Court for the Southern District of Florida;
3. all public documents, files, records, etc. pertaining to any investigation, Stephen Kissinger Dana C. Hansen Chavis Susanne Bales Stephen Ferrell
Assistant Federal Defenders

Attachment A

FBI FOIA
August 9, 2018
Page 2

arrest, indictment, conviction, sentencing, incarceration, and/or parole of Co-Defendant (2) Ricardo Sanchez (a/k/a "Rick"), DOB: 04/22/ , who was charged on April 18, 2007, with violations of 21 U.S.C. § 846, 21 U.S.C. §§ 841(b)(1)(A) and 841(b)(1)(B), 18 U.S.C. § 922(g), 18 U.S.C. §§ 924(c) and 924(j), 18 U.S.C. § 2119(3), 18 U.S.C. § 3591(a)(2)(A) and §§ 3592(c)(5), 3592(c)(8), 3592(c)(9), 3592(c)(11), and 3592(c)(16), in criminal case number 9:06-Cr-80171 in the U.S. District Court for the Southern District of Florida;

4. all public documents, files, records, etc. pertaining to any investigation, arrest, indictment, conviction, sentencing, incarceration, and/or parole of Co-Defendant (4) Juan Gutierrez (a/k/a "Flaco"), DOB: 07/01/ , who was charged on April 18, 2007, with violations of 21 U.S.C. § 846, 21 U.S.C. §§ 841(b)(1)(A) and 841(b)(1)(B), in criminal case number 9:06-Cr-80171 in the U.S. District Court for the Southern District of Florida;
5. all public documents, files, records, etc. pertaining to any investigation, arrest, indictment, conviction, sentencing, incarceration, and/or parole of Co-Defendant (5) Liana Lee Lopez (a/k/a "Negra"), DOB: 03/10/ , who was charged on April 18, 2007, with violations of 21 U.S.C. § 846, 21 U.S.C. §§ 841(b)(1)(A) and 841(b)(1)(A) and 841(b)(1)(B), in criminal case number 9:06-Cr-80171 in the U.S. District Court for the Southern District of Florida;
6. all public documents, files, records, etc. pertaining to any investigation, arrest, indictment, conviction, sentencing, incarceration, and/or parole of Co-Defendant (6) Kevin Vetere, DOB: 10/13/ , who was charged on April 18, 2007, with violations of 21 U.S.C. § 846 and 21 U.S.C. § 841(b)(1)(B), in criminal case number 9:06-Cr-80171 in the U.S. District Court for the Southern District of Florida.

Our office represents Ricardo Sanchez, Jr., in federal court in the Southern District of Florida. A signed Certification of Identity is enclosed. Mr. Sanchez is indigent, and as such, please inform me of the estimated fee for processing this request.

If you have any questions concerning this request, please telephone me at the above number. Thank you for your attention and assistance in this matter.

Sincerely,

FEDERAL DEFENDER SERVICES
OF EASTERN TENNESSEE, INC.

BY:

Michael Chavis, Investigator

Attachment A

U.S. Department of Justice



Federal Bureau of Investigation
Washington, D.C. 20535

September 20, 2018

MR. MICHAEL R. CHAVIS
FEDERAL DEFENDER SERVICES
OF EASTERN TENNESSEE, INCORPORATED
SUITE 2400
800 SOUTH GAY STREET
KNOXVILLE, TN 37929-9714

FOIPA Request No.: 1416610-000
Subject: TROYA, DANIEL, ET AL.

Dear Mr. Chavis:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to the FBI. The FOIPA Request Number listed above has been assigned to your request. Below you will find informational paragraphs relevant to your request. Please read each item carefully.

You have requested records on one or more third party individuals. Please be advised the FBI will neither confirm nor deny the existence of such records pursuant to FOIA exemptions (b)(6) and (b)(7)(C), 5 U.S.C. §§ 522 (b)(6) and (b)(7)(C). The mere acknowledgement of the existence of FBI records on third party individuals could reasonably be expected to constitute an unwarranted invasion of personal privacy. This is our standard response to such requests and should not be taken to mean that records do, or do not, exist. As a result, your request has been closed. Please visit www.fbi.gov, select "Services," "Information Management," and "Freedom of Information/Privacy Act" for more information about making requests for records on third party individuals (living or deceased).

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records subject to the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request number listed above has been assigned to your request. Please use this number in all correspondence concerning your request.

You may file an appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's FOIA online portal by creating an account on the following web site: <https://www.foiaonline.gov/foiaonline/action/public/home>. Your appeal must be postmarked or electronically transmitted within ninety (90) days from the date of this letter in order to be considered timely. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by contacting the Office of Government Information Services (OGIS) at 877-684-6448, or by emailing ogis@nara.gov. Alternatively, you may contact the FBI's FOIA Public Liaison by emailing foipaquestions@fbi.gov. If you submit your dispute resolution correspondence by email, the subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified.

Attachment B

Enclosed for your information is a copy of the Explanation of Exemptions.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hardy", with a stylized flourish at the end.

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Information Management Division

Enclosure(s)

EXPLANATION OF EXEMPTIONS**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

FBI/DOJ

From: [Chavis, Michael](#)
To: [Hansen, Dana](#)
Subject: FW: "Dispute Resolution Services" - FOIPA Request No. 1416610-000 Michael Chavis to: foipaquestion 09/24/2018 02:06 PM The attached request and "Certification of Identity" are attached for FOIPA Request No. 1416610-000. Please let me know
Date: Friday, December 21, 2018 9:01:45 AM
Attachments: [pdf001.002.002.pdf](#)

From: Michael Chavis
Sent: Monday, September 24, 2018 2:11 PM
To: foipaquestions@fbi.gov
Subject: "Dispute Resolution Services" - FOIPA Request No. 1416610-000 Michael Chavis to: foipaquestion 09/24/2018 02:06 PM The attached request and "Certification of Identity" are attached for FOIPA Request No. 1416610-000. Please let me know i...

The attached request and "Certification of Identity" are attached for FOIPA Request No. 1416610-000. Please let me know if this is satisfactory for your response to our request. Thank you.

(See attached file: pdf001.pdf)

Michael Chavis
Investigator
Federal Defender Services of Eastern Tennessee, Inc.
800 South Gay Street, Suite 2400
Knoxville, TN 37929
(865) 637-7979

**FEDERAL DEFENDER SERVICES
OF EASTERN TENNESSEE, INCORPORATED**

800 S. Gay Street, Suite 2400
Knoxville, Tennessee 37929-9714

Elizabeth B. Ford
Federal Community Defender

Telephone 865-637-7979
Fax 865-637-7999

September 24, 2018

VIA FAX: (540) 868-4391

David M. Hardy, Section Chief
Record/Information Dissemination Section
Records Management Division
Federal Bureau of Investigation
170 Marcel Drive
Winchester, VA 22602-4843

RE: FOIA Request

Dear Mr. Hardy:

This is a request pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. I am requesting that your agency provide me with copies of any and all records in your possession for the following:

1. all documents, files, records, etc. pertaining to any investigation, arrest, indictment, conviction, sentencing, incarceration, and/or parole of (3) Daniel Troya (a/k/a "Homer"), DOB: 04/22, who was charged on April 18, 2007, with violations of 21 U.S.C. § 846, 21 U.S.C. §§ 841(b)(1)(A) and 841(b)(1)(B), 18 U.S.C. § 922(g), 18 U.S.C. §§ 924(c), and 924(j), 18 U.S.C. § 2119(3), 18 U.S.C. § 3591(a)(2)(A) and §§ 3592(c)(5), 3592(c)(8), 3592(c)(9), 3592(c)(11), and 3592(c)(16), in criminal case number 9:06-Cr-80171 in the U.S. District Court for the Southern District of Florida;
2. all public documents, files, records, etc. pertaining to any investigation, arrest, indictment, conviction, sentencing, incarceration, and/or parole of Co-Defendant (i) Danny Varela (a/k/a "D.V."), DOB: 09/25/1977 who was charged on April 18, 2007, with violations of 21 U.S.C. § 846, 21 U.S.C. §§ 841(b)(1)(A) and 841(b)(1)(B), 18 U.S.C. § 922(g), 18 U.S.C. §§ 924(c), and 924(j), 18 U.S.C. § 371, 26 U.S.C. §§ 5861(d) and 5871, in criminal case number 9:06-Cr-80171 in the U.S. District Court for the Southern District of Florida;
3. all public documents, files, records, etc. pertaining to any investigation,

Stephen Kissinger Dana C. Hansen Chavis Susanne Bales Stephen Ferrell
Assistant Federal Defenders

Attachment C

FBI FOIA
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Page 2

arrest, indictment, conviction, sentencing, incarceration, and/or parole of Co-Defendant (2) Ricardo Sanchez (a/k/a "Rick"), DOB: 04/22/ , who was charged on April 18, 2007, with violations of 21 U.S.C. § 846, 21 U.S.C. §§ 841(b)(1)(A) and 841(b)(1)(B), 18 U.S.C. § 922(g), 18 U.S.C. §§ 924(c) and 924(j), 18 U.S.C. § 2119(3), 18 U.S.C. § 3591(a)(2)(A) and §§ 3592(c)(5), 3592(c)(8), 3592(c)(9), 3592(c)(11), and 3592(c)(16), in criminal case number 9:06-Cr-80171 in the U.S. District Court for the Southern District of Florida;

4. all public documents, files, records, etc. pertaining to any investigation, arrest, indictment, conviction, sentencing, incarceration, and/or parole of Co-Defendant (4) Juan Gutierrez (a/k/a "Flaco"), DOB: 07/01/ , who was charged on April 18, 2007, with violations of 21 U.S.C. § 846, 21 U.S.C. §§ 841(b)(1)(A) and 841(b)(1)(B), in criminal case number 9:06-Cr-80171 in the U.S. District Court for the Southern District of Florida;
5. all public documents, files, records, etc. pertaining to any investigation, arrest, indictment, conviction, sentencing, incarceration, and/or parole of Co-Defendant (5) Liana Lee Lopez (a/k/a "Negra"), DOB: 03/10/ , who was charged on April 18, 2007, with violations of 21 U.S.C. § 846, 21 U.S.C. §§ 841(b)(1)(A) and 841(b)(1)(A) and 841(b)(1)(B), in criminal case number 9:06-Cr-80171 in the U.S. District Court for the Southern District of Florida;
6. all public documents, files, records, etc. pertaining to any investigation, arrest, indictment, conviction, sentencing, incarceration, and/or parole of Co-Defendant (6) Kevin Vetere, DOB: 10/13/ , who was charged on April 18, 2007, with violations of 21 U.S.C. § 846 and 21 U.S.C. § 841(b)(1)(B), in criminal case number 9:06-Cr-80171 in the U.S. District Court for the Southern District of Florida.

Our office represents Ricardo Sanchez, Jr., in federal court in the Southern District of Florida. Mr. Sanchez is indigent, and as such, please inform me of the estimated fee for processing this request.

If you have any questions concerning this request, please telephone me at the above number. Thank you for your attention and assistance in this matter.

Sincerely,

FEDERAL DEFENDER SERVICES
OF EASTERN TENNESSEE, INC.

BY:


Michael Chavis, Investigator

Attachment C

U.S. Department of Justice

Certification of Identity

FORM APPROVED OMB NO
1103-0016 EXPIRES 03/31/2020

Privacy Act Statement. In accordance with 28 CFR Section 16.41(d) personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Requests will not be processed if this information is not furnished. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1103-0016), Washington, DC 20503.

Full Name of Requester ¹ Ricardo Sanchez, BOP Register # 75820-004

Citizenship Status ² United States of America Social Security Number ³ _____

Current Address Terre Haute U.S. Penitentiary, 4700 Burea Road South, Terra Haute, IN 47802

Date of Birth October 19, 1983 Place of Birth West Palm Beach, Florida

OPTIONAL: Authorization to Release Information to Another Person

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person.

Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

Federal Defender Services of Eastern Tennessee, Inc. and its representatives, agents, and designees.

Print or Type Name

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature ⁴ Ricardo Sanchez Date 9/8/18

¹ Name of individual who is the subject of the record(s) sought.

Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

³ Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

⁴ Signature of individual who is the subject of the record sought.

FORM DOJ-361

Attachment C

From: [Chavis, Michael](#)
To: [Hansen, Dana](#)
Subject: FW: "Dispute Resolution Services" - FOIPA Request No. 1416610-000 Michael Chavis to: foipaquestion 09/24/2018 02:06 PM The attached request and "Certification of Identity" are attached for FOIPA Request No. 1416610-000. Please let me know if
Date: Friday, December 21, 2018 9:05:58 AM

From: FOIPAQUESTIONS [mailto:FOIPAQUESTIONS@FBI.GOV]
Sent: Tuesday, September 25, 2018 12:59 PM
To: Michael Chavis <Michael_Chavis@fd.org>
Subject: RE: "Dispute Resolution Services" - FOIPA Request No. 1416610-000 Michael Chavis to: foipaquestion 09/24/2018 02:06 PM The attached request and "Certification of Identity" are attached for FOIPA Request No. 1416610-000. Please let me know if

The FBI has received your request for Dispute Resolution regarding your Freedom of Information/Privacy Act (FOIPA) request. A response will be forthcoming.

Note: Dispute Resolution Services (DRS) are a separate process than filing an appeal with the Office of Information Policy (OIP), and the use of DRS does not toll the 90 day limit to file a timely appeal with OIP.

Thank you,

Public Information Officer
Record/Information Dissemination Section (RIDS) FBI-Information Management Division
170 Marcel Drive, Winchester, VA 22602-4843
Direct: (540) 868-4593
Fax: (540) 868-4391
Questions E-mail: foipaquestions@fbi.gov

Do you have further questions about the FOI/PA process? Visit us at <http://www.fbi.gov/foia>

Please check the status of your request online at <https://vault.fbi.gov/fdps-1/@@search-fdps>
Status updates are performed on a weekly basis.

Note: This is a non-emergency email address. If this is an emergency, please call 911 directly. If you need to report a tip for immediate action, please contact FBI Tips at <http://tips.fbi.gov/> or reach out to your local field office.

From: Michael Chavis [mailto:Michael_Chavis@fd.org]
Sent: Monday, September 24, 2018 2:12 PM
To: FOIPAQUESTIONS <FOIPAQUESTIONS@FBI.GOV>
Subject: "Dispute Resolution Services" - FOIPA Request No. 1416610-000 Michael Chavis to: foipaquestion 09/24/2018 02:06 PM The attached request and "Certification of Identity" are attached for FOIPA Request No. 1416610-000. Please let me know if t...

The attached request and "Certification of Identity" are attached for FOIPA Request No. 1416610-000. Please let me know if this is satisfactory for your response to our request. Thank you.

(See attached file: pdf001.pdf)

Michael Chavis
Investigator
Federal Defender Services of Eastern Tennessee, Inc.
800 South Gay Street, Suite 2400
Knoxville, TN 37929
(865) 637-7979



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535

September 28, 2018

MR. MICHAEL R. CHAVIS
FEDERAL DEFENDER SERVICES
OF EASTERN TENNESSEE, INCORPORATED
SUITE 2400
800 SOUTH GAY STREET
KNOXVILLE, TN 37929-9714

FOIPA Request No.: 1416610-000
Subject TROYA, DANIEL ET AL.

Dear Mr Chavis,

Thank you for utilizing the Federal Bureau of Investigation's (FBI) Freedom of Information / Privacy Acts (FOIPA) dispute resolution services. We appreciate your patience regarding this matter.

Regarding your inquiry dated September 24, 2018, which contained a privacy waiver for one of the individuals associated with this FOIPA request, we conducted an additional review. We determined a search is required for Ricardo Sanchez as a waiver was provided and; therefore, a new FOIPA request number will be opened and assigned. You will be notified of this new FOIPA request letter in future correspondence. Upon receiving this number, you will be able to view the status of your request at www.fbi.gov/foia by clicking on FOIPA Status and entering your FOIPA Request Number. Status updates are adjusted weekly. The status of newly assigned requests may not be available until the next weekly update.

We determined our response letter dated September 20, 2018 was appropriate for Daniel Troya, Danny Varela, Juan Gutierrez, and Liana Lee Lopez and further action is not required. As a result, we are unable to resolve your dispute and FOIA 1416610-000 will remain closed.

As previously advised, in the absence of proof of death or a privacy waiver, it is incumbent upon the requester to demonstrate a significant public interest in the operations and activities of the government outweighs substantial privacy interests of living third-party subjects. The information provided in your dispute did not demonstrate a sufficient public interest to outweigh substantial privacy interests. As such, the FBI can neither confirm nor deny the existence of any records responsive to your request. If records were to exist, they would be exempt from disclosure pursuant to FOIA exemptions (b)(6) and (b)(7)(C), 5 U.S.C. § 552 (b)(6) and (b)(7)(C).

To reopen your request, you will need to submit proof of death or a privacy waiver. You can submit a privacy waiver by completing the enclosed Certification of Identity Form. To be considered a valid privacy waiver, your name must be listed on the "Authorization to Release Information to Another Person" line.

Should you disagree with our determination, you may file an appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within ninety (90) days from the date of this letter in order to be considered timely. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so that it may be easily identified.

Finally, your use of FBI dispute resolution services does not toll or suspend the ninety (90) days for filing a timely appeal with the Director, OIP, U.S. Department of Justice as we advised in our letter of September 20, 2018

Sincerely

A handwritten signature in dark ink, appearing to read "D. Hardy", with a stylized flourish at the end.

David M. Hardy
Section Chief
Record/Information
Dissemination Section
Information Management Division

Enclosure



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

September 27, 2018

MR. MICHAEL R. CHAVIS
FEDERAL DEFENDER SERVICES OF
EASTERN TENNESSEE, INC.
SUITE 2400
800 SOUTH GAY STREET
KNOXVILLE, TN 37928-9714

FOIPA Request No.: 1417523-000
Subject: SANCHEZ, RICARDO

Dear Mr. Chavis:

This acknowledges receipt of your Freedom of Information/Privacy Acts (FOIPA) request to the FBI. Below you will find check boxes and informational paragraphs about your request, as well as specific determinations required by these statutes. Please read each one carefully.

- ☒ Your request has been received at FBI Headquarters for processing
- ☐ Your request has been received at the _____ Resident Agency / _____ Field Office and forwarded to FBI Headquarters for processing.
- ☐ The subject of your request is currently being processed and documents will be released to you upon completion.
- ☐ Release of responsive records will be posted to the FBI's electronic FOIA Library (The Vault), <http://vault.fbi.gov>, and you will be contacted when the release is posted.
- ☐ Your request for a public interest fee waiver is under consideration, and you will be advised of the decision at a later date. If your fee waiver is not granted, you will be responsible for applicable fees per your designated requester fee category below.
- ☒ For the purpose of assessing any fees, we have determined:
 - ☐ As a commercial use requester, you will be charged applicable search, review, and duplication fees in accordance with 5 USC § 552 (a)(4)(A)(i)(I).
 - ☐ As an educational institution, noncommercial scientific institution or representative of the news media requester, you will be charged applicable duplication fees in accordance with 5 USC § 552 (a)(4)(A)(i)(II).
 - ☒ As a general (all others) requester, you will be charged applicable search and duplication fees in accordance with 5 USC § 552 (a)(4)(A)(i)(III).

Please check the status of your FOIPA request at www.fbi.gov/foia by clicking on FOIPA Status and entering your FOIPA Request Number. Status updates are adjusted weekly. The status of newly assigned requests may not be available until the next weekly update. If the FOIPA has been closed the notice will indicate that appropriate correspondence has been mailed to the address on file.

For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request number listed above has been assigned to your request. Please use this number in all correspondence concerning your request.

Attachment F

You may file an appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's FOIA online portal by creating an account on the following web site: <https://www.foiaonline.gov/foiaonline/action/public/home>. Your appeal must be postmarked or electronically transmitted within ninety (90) days from the date of this letter in order to be considered timely. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by contacting the Office of Government Information Services (OGIS) at 877-684-6448, or by emailing ogis@nara.gov. Alternatively, you may contact the FBI's FOIA Public Liaison by emailing foipaquestions@fbi.gov. If you submit your dispute resolution correspondence by email, the subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified.

Sincerely,



David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Information Management Division

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

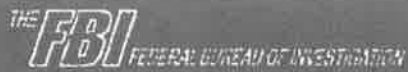
SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

FBI/DOJ

12/21/2018

FBI — FDPS



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Check Status of Your FOIA Request

If your FOIPA Number is 11195846-0 please enter 11195846-000 into the system. If your FOIPA number is 11195846-1 please enter 11195846-001 into the system. If you have any questions about the status of your FOIPA request, please e-mail foipaquestions@fbi.gov.

Find status of FOIPA-Last updated on Dec. 20, 2018 11:39 am

FOIPA:

Result

FOIPA
1417523-000

Case Type
FOIPA

Process Description

The FBI's FOIPA Program has identified potential responsive information to your request(s) and awaits assignment to a Government Information Specialist (GIS) for further processing.

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